



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-95579; File No. SR-NYSENAT-2022-15]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule to Change the Name of Its Business Conduct Committee

August 23, 2022.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (“Act”)² and Rule 19b-4 thereunder,³ notice is hereby given that on August 8, 2022, NYSE National, Inc. (“NYSE National” or the “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to change the name of its “Business Conduct Committee” to the “Hearing Board.” The proposed rule change is available on the Exchange’s website at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

for, the Proposed Rule Change

1. Purpose

The Exchange proposes to change the name of its “Business Conduct Committee” (“BCC”) to the “Hearing Board.” The change will require amendments to the Sixth Amended and Restated Bylaws of the Exchange (“Bylaws”) and Rules 10.9120(v) (Definitions), 10.9217(b) (Violations Appropriate for Disposition Under Rule 10.9216(b)), and 10.9232 (Criteria for Selection of Panelists and Replacement Panelists). Only the committee’s name would change, and there would be no other change to the Bylaws and rules with respect to the committee.

Pursuant to the Bylaws, the BCC is a committee of the Board and presides over all disciplinary proceedings in accordance with the rules and as may be specified in its charter. In turn, the rules mandate that the Board appoint the BCC annually and set the requirements for the BCC’s composition.⁴ The rule further provide that the Chief Hearing Officer selects the members of hearing panels from the BCC, and the role of the hearing panels in adjudicating individual disciplinary proceedings.⁵

⁴ See Rule 10.9232.

⁵ See, e.g., Rules 10.9231 (Appointment by the Chief Hearing Officer of Hearing Panel or Extended Hearing Panel or Replacement Hearing Officer), 10.9232, and 10.9268 (Decision of Hearing Panel or Extended Hearing Panel). Chief Hearing Officer is defined in Rule 10.9120(c).

Starting in 2013, the Exchange and its self-regulatory organization affiliates (together with the Exchange, the “NYSE Exchanges”)⁶ have adopted rules relating to investigation, discipline, and sanctions, and other procedural rules, based on the rules of the Financial Industry Regulatory Authority.⁷ As a result, the NYSE Exchanges all have disciplinary committees that play substantially the same role and are subject to the same or substantially similar rules as the BCC.⁸ The Exchange now proposes to conform the legacy name of its disciplinary committee with such other committees.

In order to implement the change, the Exchange proposes to amend the Exchange Bylaws as follows.

- The first sentence of Article V, Section 5.1 (Number of Committees) lists the committees of the Board. The Exchange proposes to exchange the reference to the BCC with a reference to the Hearing Board, in alphabetical order, as follows (deletion in brackets, addition in italics):

The committees of the Board shall consist of [a Business Conduct Committee,] a Committee for Review, a Hearing Board, a Nominating Committee, a Regulatory Oversight Committee, and such other committees as may be from time to time established by the Board.

⁶ The other NYSE Exchanges are the New York Stock Exchange LLC (“NYSE”), NYSE American LLC (“NYSE American”), NYSE Arca, Inc. (“NYSE Arca”) and NYSE Chicago, Inc. (“NYSE Chicago”).

⁷ See Exchange Act Release Nos. 69045 (March 5, 2013), 78 FR 15394 (March 11, 2013) (SR-NYSE-2013-02); 77241 (February 26, 2016), 81 FR 11311 (March 3, 2016) (SR-NYSEMKT-2016-30); 83289 (May 17, 2018), 83 FR 23968 (May 23, 2018) (SR-NYSENat-2018-02); 85639 (April 12, 2019), 84 FR 16346 (April 18, 2019) (SR-NYSEArca-2019-15); and 95020 (June 1, 2020), 87 FR 35034 (June 8, 2022) (SR-NYSECHX-2022-10).

⁸ The differences between the rules are largely attributable to the NYSE Exchanges’ distinct membership structures and use of terminology, as well as the fact that not all of the NYSE Exchanges have a trading floor. See 83 FR 23968, *supra* note 7, at 23973; *see, e.g.* NYSE Rule 9231; NYSE American Rule 9231; NYSE Arca Rule 10.9231; and NYSE Chicago Rule 9231.

- In Section 5.9 (Business Conduct Committee), “Business Conduct Committee” would be replaced with “Hearing Board” in the title and body of the section.
- In a non-substantive change, the Exchange proposes to amend the title of the Bylaws to reflect that they are the “Seventh Amended and Restated Bylaws of NYSE National, Inc.”

In addition, the Exchange proposes to amend the rules of the Exchange as follows.

- The Exchange proposes to delete the final sentence of the definition of “Panelist” in Rule 10.9120(v). The text of the sentence states that Hearing Panel members will be drawn from the BCC. Under the proposed change, that sentence would not be required, because revised Rule 10.9232 would state that each Panelist “shall be a member of the Exchange Hearing Board,” making the previous statement redundant. The proposed deletion would make the definition the same as the definition of “Panelist” in the rules of the NYSE Arca and NYSE Chicago,⁹ and, apart from the cross references, the same as the definition in the rules of the NYSE and NYSE American.¹⁰
- Current Rule 10.9217(b) (Violations Appropriate for Disposition Under Rule 10.9216(b)) would be amended to replace the reference to the BCC with a reference to the Hearing Board.¹¹

⁹ See NYSE Arca Rule 10.9120(v) (Definitions) and NYSE Chicago Rule 9120(v) (Definitions).

¹⁰ The NYSE and NYSE American definitions reference the Rule 9200 Series, Rule 9550 Series, and Rule 9800 Series instead of the Rule 10.9200 Series, the Rule 10.9550 Series, and the Rule 10.9800 Series. See NYSE Rule 9120(v) (Definitions) and NYSE American Rule 9120(v) (Definitions). See also 83 FR 23968, *supra* note 7, at 23973 (noting the difference between the Exchange and NYSE American rules).

¹¹ Rule 10.9217(b) incorporates the requirement in previous Rule 8.15(c) that if a person or organization fined pursuant to the Rule pays the fine, such payment is deemed a waiver of any right to a disciplinary proceeding under the Rule 10.9000 Series and of any right to review of the matter by the BCC, Committee for Review, or the Board. See *id.*, at 23973 (noting that Rule 10.9217 is a merger of NYSE American Rule 9217 and Rule 8.15).

- “BCC” would be replaced with “Hearing Board” in Rule 10.9232. The other NYSE Exchanges use “hearing board,” but capitalizing “Hearing Board” would be consistent with proposed Article V, Section 5.1 of the Bylaws, which would capitalize the name of the committee. Otherwise, the revised text would be consistent with the same provision in the rules of the NYSE, NYSE American, NYSE Arca, and NYSE Chicago.¹²

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act,¹³ in general, and furthers the objectives of Section 6(b)(1)¹⁴ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,¹⁵ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Changing the name of the BCC to “Hearing Board” would make the name of the

¹² See NYSE Rule 9232 (Criteria for Selection of Panelists and Replacement Panelists); NYSE American Rule 9232 (Criteria for Selection of Panelists and Replacement Panelists); NYSE Arca Rule 10.9232 (Criteria for Selection of Panelists and Replacement Panelists); and NYSE Chicago Rule 10.9232 (Criteria for Selection of Panelists and Replacement Panelists).

¹³ 15 U.S.C. 78f(b).

¹⁴ 15 U.S.C. 78f(b)(1).

¹⁵ 15 U.S.C. 78f(b)(5).

Exchange's disciplinary committee consistent with those of the other NYSE Exchanges, each of which has a hearing board with the same responsibilities and functions. The Exchange believes that this change would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Exchange Act and comply with the provisions of the Exchange Act by its members and persons associated with members, because the BCC plays substantially the same role, and is subject to the same or substantially similar rules, as the other NYSE Exchanges' hearing boards.¹⁶ The proposed name change therefore would increase conformity in the committee names, reflecting the similarity among the committees themselves. For the same reason, the Exchange believes that the proposed change would protect investors and the public interest.

The Exchange also believes that the greater consistency among the names of the NYSE Exchanges' hearing boards would promote the maintenance of a fair and orderly market and the protection of investors and the public interest by removing any confusion that may result from the Exchange's disciplinary committee being called the BCC, given that NYSE Arca has a business conduct committee, also referred to as the "BCC," that is subject to different rules and has a distinct function and authority than the NYSE National BCC.¹⁷

The proposed change would reduce redundancy by deleting the final sentence of the definition of "Panelist" in Rule 10.9120(v), which states that Hearing Panel members will be drawn from the BCC. Under the proposed change, that sentence would not be required, because revised Rule 10.9232 would state that each Panelist "shall be a member of the Exchange Hearing Board," thereby making any previous statement redundant. The change would streamline and increase the clarity of the rules, which would contribute to the orderly operation of the Exchange

¹⁶ Starting in 2013, the NYSE Exchanges have adopted rules relating to investigation, discipline, and sanctions, and other procedural rules, based on the rules of the Financial Industry Regulatory Authority. See note 7, supra.

¹⁷ See, e.g. NYSE Arca Rules 3.2(B)(2) (Exchange Committees), 10.3 (Ex Parte Communications), 10.4 (Complaints), and 10.12 (Minor Rule Plan). See also 84 FR 16346, supra note 7, at 16356.

and be beneficial to both investors and the public interest.

For the same reasons, the proposed amendments would remove impediments to and perfect the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public could more easily navigate and understand the Exchange Bylaws and rules. The Exchange further believes that the proposed amendments would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency and clarity, thereby reducing potential confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with the name of the disciplinary committee of the Exchange. Because the only proposed change would be to the name of the committee, there would be no other change to the Bylaws and rules governing the BCC, including those regarding its appointment, composition, or jurisdiction.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁸ and Rule 19b-4(f)(6) thereunder.¹⁹ Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was

¹⁸ 15 U.S.C. 78s(b)(3)(A)(iii).

¹⁹ 17 CFR 240.19b-4(f)(6).

filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.²⁰

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²¹ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-NYSENAT-2022-15 on the subject line.

Paper comments:

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

²⁰ 17 CFR 240.19b-4(f)(6)(iii). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²¹ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR-NYSENAT-2022-15. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NYSENAT-2022-15 and should be submitted on or before [INSERT DATE 21 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

J. Matthew DeLesDernier,
Deputy Secretary.

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²² 17 CFR 200.30-3(a)(12).